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EXAMINER

MAYO III, WILLIAM H

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 08/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,786

Applicant(s)

HOLLAND ET AL.

Examiner

William H. Mayo III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Priority

1. If applicant desires priority under 35 U.S.C. 120 based upon a previously filed copending application, specific reference to the earlier filed application must be made in the instant application. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph. The status of nonprovisional parent application(s) (whether pending, patented, or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed on or after November 29, 2000, any claim for priority must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2) and (a)(5). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be

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accompanied by (1) a surcharge under 37 CFR 1.17(t), and (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional. The petition should be directed to the Office of Petitions, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231.

Information Disclosure Statement

2. The information disclosure statement filed May 13, 2002, has been submitted for consideration by the Office. It has been placed in the application file and the information referred to therein has been considered.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Specifically, the date in which the parent case, was filed has been altered and doesn't contain initials.

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Drawings

4. The drawings are objected to because Figures 5a-5b lack the proper cross-hatching, which indicates the type of materials, which may be in an invention. Specifically, the cross hatching that indicates the conductor, insulator, and outer jacket materials is incorrect. The applicant should refer to MPEP Section 608.02 for the proper cross-hatching of materials.

Correction is required.

Specification

5. The abstract of the disclosure is objected to because it contains a run on sentence in lines 3-4, which is improper for the abstract. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Regarding claim 1, the phrase "and/or" renders the claim indefinite because it is unclear whether the claim limitations, with respect to the phrase is inclusive or not. See MPEP § 2173.05(d).

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9. Claims 2-13 are depended upon rejected claim 1 and therefore are rejected.
10. Regarding claim 14, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
11. Regarding claim 14, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
12. Claims 15-26 are depended upon rejected claim 14 and therefore are rejected.

Double Patenting

13. Claims 1-13 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-13 of copending Application No. 09/860,423. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Treatment of Claims

14. The examiner assumes that the terms recited after the term "such as" and "the like" environments in which the cable may be used. The examiner also assumes that the term "and/or" is not inclusive but rather offers an option of abrasion, chemical, or weather extremes.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-2, 8-9, 27-28, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrieu et al (Pat Num 5,300,337, herein referred to as Andrieu).

Andrieu discloses a protective cover (Figs 1-4) for cables or hoses (abstract), which are capable of being used in environments wherein the cover (Figs 1-4) may be subject to abrasion and weather extremes (i.e. heat, Col 1, lines 12-20). Specifically, with respect to claim 1, Andrieu discloses a protective cover (10) comprising a sleeve (Figs 1-2, Col 3, lines 55-59) capable of surrounding a cable or hose (abstract, Fig 4), wherein the sleeve has open ends (left and right ends) and is formed of a fabric (10) made of substantially high strength yarn (11, i.e. polyester, Col 3, lines 8-12). With respect to claim 2, Andrieu discloses that the fabric (11) is formed from at least 70 percent high strength yarns (i.e. 100 % polyester). With respect to claim 8, Andrieu discloses that the sleeve (Fig 1) is formed as an elongated sheet having opposing longitudinal edges (top and bottom edges), wherein the opposed longitudinal edges (top and bottom edges) includes means (15) for releasably attaching the opposed longitudinally edges together (Col 4, lines 24-31) around the length of a cable or hose (abstract, Fig 4). With respect to claim 9, Andrieu discloses that the means (15) for fastening the longitudinal

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edges comprises hook and loop material (see 15, Col 4, lines 35-47). With respect to claim 27, Andrieu discloses an abrasion resistant cable system (Fig 4) comprising a cable (not numbered) that is subject to being periodically moved across abrasion surfaces (Col 1, lines 12-20) and a protective sleeve (10) surrounding the cable, which is formed from a fabric made of substantially high performance yarn (i.e. polyester), has open ends (left and right ends), and protects the cable (Fig 4) from abrasion and wear thereof (Col 1, lines 12-20). With respect to claim 28, Andrieu discloses that the fabric (11) is formed from at least 70 percent high strength yarns (i.e. 100 % polyester). With respect to claim 34, Andrieu discloses that the sleeve (Fig 1) is formed as an elongated sheet having opposing longitudinal edges (top and bottom edges), wherein the opposed longitudinal edges (top and bottom edges) includes means (15) for releasably attaching the opposed longitudinally edges together (Col 4, lines 24-31) around the length of a cable or hose (abstract, Fig 4). With respect to claim 35, Andrieu discloses that the means (15) for fastening the longitudinal edges comprises hook and loop material (see 15, Col 4, lines 35-47).

17. Claim 14, 21-22, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Ratigan (Pat Num 5,441,790). Ratigan discloses a protective cover (1) for use with a rope (Figs 1-4), and which is used in environments in which lengths of the rope are subject to abrasion (Col 1, lines 5-10). Specifically, with respect to claim 14, Ratigan discloses a protective cover (1) comprising a sleeve (Fig 1) surrounding a length of a rope (5), wherein the sleeve (Fig 1) has open ends (see Fig 4, top and bottom of 1 where the rope extends) and is formed of a fabric (i.e. textile material) made

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of substantially high strength yarn (i.e. polyester fibers, Col 2, lines 1-3). With respect to claim 21, Ratigan discloses that the sleeve (Fig 1) is formed of an elongated sheet (Fig 3) having opposed longitudinal edges (left and right edges), wherein the edges includes means (3 & 4) for releasably attaching the opposed longitudinally edges (left and right edges) together around the length of the rope (5, Col 3, lines 1-12). With respect to claim 22, Ratigan discloses that the means (3 & 4) for fastening the opposed longitudinally edges (left and right edges) comprises hook and loop material (i.e. Velcro, Col 3, lines 10-12). With respect to claim 40, Ratigan discloses an abrasion resistant rope (5) of the type that is capable of periodically moved across abrasive surfaces (Col 1, lines 62-68).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

20. Claims 3-7 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrieu (Pat Num 5,300,337) in view of Holland et al (Pat Num 5,395,682, herein referred to as Holland). Andrieu discloses a protective cover (Figs 1-4) for cables or hoses (abstract), which are capable of being used in environments wherein the cover (Figs 1-4) may be subject to abrasion and weather extremes (i.e. heat, Col 1, lines 12-20) as explained above with reference to claims 1 & 27. Specifically, with respect to claim 6, Andrieu discloses that the high strength yarn (11, i.e. polyester) is about 400 to 1000 denier (i.e. 600-2500, Col 3, lines 60-67). With respect to claim 7, Andrieu discloses that the fabric covering (10) has a warp and fill density of about 40 ends per inch (Col 4, lines 1-10). With respect to claim 32, Andrieu discloses that the high strength yarn (11, i.e. polyester) is about 400 to 1000 denier (i.e. 600-2500, Col 3, lines 60-67). With respect to claim 33, Andrieu discloses that the fabric covering (10) has a warp and fill density of about 40 ends per inch (Col 4, lines 1-10).

However, Andrieu doesn't necessarily disclose the protective cover being made of a material fabric having a weight of between of between about 5 & 8 ounces per square yard (claims 3 & 29), nor the fabric being resistant to petroleum based products (claims 4 & 30), nor the high strength yarn being selected from the group consisting of long chain polyethylenes, high strength aramids, liquid crystal polymers, and combinations thereof (claims 5 & 31), nor the fabric density of between about 30 and 36 inches per inch (claims 7 & 33).

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Holland teaches a protective cover, that is made of Spectra® fibers (Col 2, lines 28-37), that overcomes the disadvantages of polyester fabric covers (Col 2, lines 16-23), has minimal weight, increased abrasion resistance, tear strength, cut and stab resistance, and is compatible with the environment (Col 1, lines 5-10). Specifically, with respect to claim 3, Holland teaches that the fibers may be used to form a fabric having a weight of between about 5 & 8 ounces per square yard (Col 2, lines 49-51) for the purpose of providing a fabric that is lightweight while also providing a sufficient strength and durability to withstand the use and environment to the fabric is exposed (Col 2, lines 51-56). With respect to claim 4, Holland teaches that the fabric formed of Spectra® fibers are chemical resistance to petroleum-based products (Col 4, lines 45-51). With respect to claim 5, Holland teaches that the fabric containing Spectra® fibers, which are long chain extended polyethylene (Col 2, lines 25-30). With respect to claim 7, Holland teaches that the fabric may be constructed to have a warp and fill density of between 30 and 36 ends per inch (Col 2, lines 49-51). With respect to claim 29, Holland teaches that the fibers may be used to form a fabric having a weight of between about 5 & 8 ounces per square yard (Col 2, lines 49-51) for the purpose of providing a fabric that is lightweight while also providing a sufficient strength and durability to withstand the use and environment to the fabric is exposed (Col 2, lines 51-56). With respect to claim 30, Holland teaches that the fabric formed of Spectra® fibers are chemical resistance to petroleum-based products (Col 4, lines 45-51). With respect to claim 31, Holland teaches that the fabric containing Spectra® fibers, which are long chain extended polyethylene (Col 2, lines 25-30). With respect to claim 33, Holland teaches that the

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fabric may be constructed to have a warp and fill density of between 30 and 36 ends per inch (Col 2, lines 49-51).

With respect to claims 3-5, 7, 29-31, and 33, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the protective cover, which is made of polyester fibers, of Andrieu to comprise the Spectra® fibers and the fabric parameters of the protective fabric as taught by Holland because Holland teaches that such a fabric by made of commercially available Spectra® fibers and having the specified parameters, overcomes the disadvantages of polyester fabric covers (Col 2, lines 16-23), has minimal weight, increased abrasion resistance, tear strength, cut and stab resistance, and is compatible with the environment in which the cover is used (Col 1, lines 5-10) and since it has been held to be within general skill of a worker in the art to select a commercially available or known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

21. Claims 10-12 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrieu (Pat Num 5,300,337) in view of Kite, III et al (Pat Num 4,891,256, herein referred to as Kite). Andrieu discloses a protective cover (Figs 1-4) for cables or hoses (abstract), which are capable of being used in environments wherein the cover (Figs 1-4) may be subject to abrasion and weather extremes (i.e. heat, Col 1, lines 12-20) as described above with reference to claims 1 & 27. Specifically, with respect to claim 10, Andrieu discloses a protective cover (10) comprising a sleeve (Figs 1-2, Col 3, lines 55-59) capable of surrounding a cable or hose (abstract, Fig 4). With

respect to claim 11, Andrieu discloses that the sleeve (Fig 1) is formed having opposing longitudinal edges (top and bottom edges), wherein the opposed longitudinal edges (top and bottom edges) includes means (15) for releasably attaching the opposed longitudinally edges together (Col 4, lines 24-31) around the length of a cable or hose (abstract, Fig 4). With respect to claim 12, Andrieu discloses that the means (15) for fastening the longitudinal edges comprises hook and loop material (see 15, Col 4, lines 35-47). With respect to claim 36, Andrieu discloses a protective cover (10) comprising a sleeve (Figs 1-2, Col 3, lines 55-59) capable of surrounding a cable or hose (abstract, Fig 4). With respect to claim 37, Andrieu discloses that the sleeve (Fig 1) is formed having opposing longitudinal edges (top and bottom edges), wherein the opposed longitudinal edges (top and bottom edges) includes means (15) for releasably attaching the opposed longitudinally edges together (Col 4, lines 24-31) around the length of a cable or hose (abstract, Fig 4). With respect to claim 38, Andrieu discloses that the means (15) for fastening the longitudinal edges comprises hook and loop material (see 15, Col 4, lines 35-47).

However, Andrieu doesn't necessarily disclose the sleeve being a plurality of bands comprising a short length of the fabric and being spaced apart along the length of the cable or hose (claims 10 & 36), nor each band having opposed longitudinally edges including means for fastening the opposed longitudinally edges together around the length of the cable (claims 11 & 37).

Kite teaches a wraparound closure device (Figs 1-4) made of a fabric that protects elongated substrates, such as cables, from abrasion (Col 1, lines 5-10).

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Specifically, with respect to claims 10 & 36, Kite teaches a wraparound sleeve (10-Fig 3) that may be made of polyester (Col 4, line 49-50) and is formed as a plurality of bands (see three fabric sleeves not numbered) wherein each band comprises a short length of the fabric which are spaced apart along the length of the cable (Fig 3) for the purpose of providing effective bundling device that accommodates multiple cable break-outs (Col 1, lines 38-45). With respect to claims 11 & 37, Kite teaches that each short length of fabric (see 3 section of fabric, Fig 3) having opposed longitudinally edges (left and right sides of all three fabrics) wherein the opposed longitudinally edges has means (24, 30, & 32) for fastening the opposed longitudinally edges together around a length of the cable (Fig 3).

With respect to claims 10-11 & 36-37, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the polyester protective cover of Andrieu to comprise a multiple protective covers as taught by the Kite because Kite teaches that such a fabric configuration protects elongated articles from abrasion (Col 4, lines 5-8) and provides effective bundling device that accommodates multiple cable break-outs (Col 1, lines 38-45) and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. (*St. Regis Paper Co v. Bemis Co.*, 193 USPQ 8).

22. Claims 13 & 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Andrieu (Pat Num 5,300,337) in view of Holt et al (Pat Num 5,070,597, herein referred to as Holt). Andrieu discloses a protective cover (Figs 1-4) for cables or hoses (abstract), which are capable of being used in environments wherein the cover (Figs 1-

4) may be subject to abrasion and weather extremes (i.e. heat, Col 1, lines 12-20) as detailed above with reference to claims 1 & 27.

However, Andrieu doesn't necessarily disclose the protective cover further comprising a hood made of the same fabric and fastened to at least one end of the sleeve for protecting the exposed end of the cable or hose (claims 13 & 39).

Holt teaches a double wall protective cover (Figs 1-19b) comprising flame retardant, abrasion resistance, and split or tear resistance (Col 18, lines 21-26), for the purpose of providing environmental protection, including electrical protection, and joining or mechanical holding of substrates such as cables or pipes (Col 1, lines 17-21). Specifically, with respect to claims 13 & 39, Holt discloses that the protective cover (Figs 1-19b) may be formed of polyester (Col 7, line 36) and as a hood (i.e. end cap, 19, Figs 6a-d), wherein the hood (19) may be fastened to at least one end of the cable or pipe (22) for protecting the exposed end of the cable or pipe (22, Col 29, lines 23-24).

With respect to claims 13 & 39, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the cable or pipe assembly of Andrieu to comprise a end cap protective cover formed of fabric as taught by the Holt because Holt teaches that fabrics, having excellent flame retardant, abrasion resistance, and split or tear resistance (Col 18, lines 21-26), are commonly used to protect cables and pipes are sometimes formed as end cap cover configuration that provides environmental protection, including electrical protection for the joining or mechanical holding of substrates such as cables or pipes (Col 1, lines 17-21) and also provides protection for the exposed ends of cables or pipes (Col 29, lines 23-24).

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23. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratigan (Pat Num 5,441,790) in view of Holland et al (Pat Num 5,395,682, herein referred to as Holland). Ratigan discloses a protective cover (1) for use with a rope (Figs 1-4), and which is used in environments in which lengths of the rope are subject to abrasion (Col 1, lines 5-10) as described above with reference to claim 14.

However, Ratigan doesn't necessarily disclose the protective cover being formed of at least 70 percent high strength yarns (claim 15), nor the fabric being made of a material fabric having a weight of between about 5 & 8 ounces per square yard (claim 16), nor the fabric being resistant to petroleum based products (claim 17), nor the high strength yarn being selected from the group consisting of long chain polyethylenes, high strength aramids, liquid crystal polymers, and combinations thereof (claim 18), nor the high strength yarns being about 400 to 1000 denier (claim 19), nor the fabric density of between about 30 and 36 inches per inch (claim 20).

Holland teaches a protective cover, that is made of Spectra® fibers (Col 2, lines 28-37), that overcomes the disadvantages of polyester fabric covers (Col 2, lines 16-23), has minimal weight, increased abrasion resistance, tear strength, cut and stab resistance, and is compatible with the environment (Col 1, lines 5-10). Specifically, with respect to claim 15, Holland teaches that the protective cover comprises 100 percent Spectra® fibers (Col 2, lines 28-37). With respect to claim 16, Holland teaches that the fibers may be used to form a fabric having a weight of between about 5 & 8 ounces per square yard (Col 2, lines 49-51). With respect to claim 17, Holland teaches that the fabric formed of Spectra® fibers are chemical resistance to petroleum-based products

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(Col 4, lines 45-51). With respect to claim 18, Holland teaches that the fabric containing Spectra® fibers, which are long chain extended polyethylene (Col 2, lines 25-30). With respect to claim 19, Holland teaches that the fibers are about 400 to 1000 denier (Col 2, lines 49-50). With respect to claim 20, Holland teaches that the fabric may be constructed to have a warp and fill density of between 30 and 36 ends per inch (Col 2, lines 49-51).

With respect to claims 15-20, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the protective cover, which is made of polyester fibers, of Ratigan to comprise the Spectra® fibers and the fabric parameters of the protective fabric as taught by Holland because Holland teaches that such a fabric by made of commercially available Spectra® fibers and having the specified parameters, overcomes the disadvantages of polyester fabric covers (Col 2, lines 16-23), has minimal weight, increased abrasion resistance, tear strength, cut and stab resistance, and is compatible with the environment in which the cover is used (Col 1, lines 5-10) and since it has been held to be within general skill of a worker in the art to select a commercially available or known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

24. Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ratigan (Pat Num 5,441,790) in view of Kite, III et al (Pat Num 4,891,256, herein referred to as Kite). Ratigan discloses a protective cover (1) for use with a rope (Figs 1-4), and which is used in environments in which lengths of the rope are subject to

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abrasion (Col 1, lines 5-10) as described above with reference to claim 14. Specifically, with respect to claim 23, Ratigan discloses a protective cover (1) comprising a sleeve (Fig 1) capable of surrounding a rope (5, Col 3, lines 1-12). With respect to claim 24, Ratigan discloses that the sleeve (Fig 3) is formed having opposing longitudinal edges (left and right edges), wherein the opposed longitudinal edges (left and right edges) includes means (3 & 4) for releasably attaching the opposed longitudinally edges together around the length of a rope (5, Col 3, lines 1-12). With respect to claim 25, Ratigan discloses that the means (3 & 4) for fastening the longitudinal edges (left and right edges) comprises hook and loop material (i.e. Velcro, Col 3, lines 10-11).

However, Ratigan doesn't necessarily disclose the sleeve being a plurality of bands comprising a short length of the fabric and being spaced apart along the length of the cable or hose (claim 23), nor each band having opposed longitudinally edges including means for fastening the opposed longitudinally edges together around the length of the cable (claim 24).

Kite teaches a wraparound closure device (Figs 1-4) made of a fabric that protects elongated substrates, such as cables, from abrasion (Col 1, lines 5-10). Specifically, with respect to claim 23, Kite teaches a wraparound sleeve (10-Fig 3) that may be made of polyester (Col 4, line 49-50) and is formed as a plurality of bands (see three fabric sleeves not numbered) wherein each band comprises a short length of the fabric which are spaced apart along the length of the cable (Fig 3) for the purpose of providing effective bundling device that accommodates multiple cable break-outs (Col 1, lines 38-45). With respect to claim 24, Kite teaches that each short length of fabric (see

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3 section of fabric, Fig 3) having opposed longitudinally edges (left and right sides of all three fabrics) wherein the opposed longitudinally edges has means (24, 30, & 32) for fastening the opposed longitudinally edges together around a length of the cable (Fig 3).

With respect to claims 23-24, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the polyester protective cover of Ratigan to comprise a multiple protective covers as taught by the Kite because Kite teaches that such a fabric configuration protects elongated articles from abrasion (Col 4, lines 5-8) and provides effective bundling device that accommodates multiple cable break-outs (Col 1, lines 38-45) and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. (*St. Regis Paper Co v. Bemis Co.*, 193 USPQ 8).

25. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ratigan (Pat Num 5,441,790) in view of Holt et al (Pat Num 5,070,597, herein referred to as Holt). Ratigan discloses a protective cover (1) for use with a rope (Figs 1-4), and which is used in environments in which lengths of the rope are subject to abrasion (Col 1, lines 5-10) as described above with reference to claim 14.

However, Ratigan doesn't necessarily disclose the protective cover further comprising a hood made of the same fabric and fastened to at least one end of the sleeve for protecting the exposed end of the cable or hose (claim 26).

Holt teaches a double wall protective cover (Figs 1-19b) comprising flame retardant, abrasion resistance, and split or tear resistance (Col 18, lines 21-26), for the purpose of providing environmental protection, including electrical protection, and

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joining or mechanical holding of substrates such as cables or pipes (Col 1, lines 17-21). Specifically, with respect to claim 26, Holt discloses that the protective cover (Figs 1-19b) may be formed of polyester (Col 7, line 36) and as a hood (i.e. end cap, 19, Figs 6a-d), wherein the hood (19) may be fastened to at least one end of the cable or pipe (22) for protecting the exposed end of the cable or pipe (22, Col 29, lines 23-24).

With respect to claim 26, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the cable or pipe assembly of Andrieu to comprise a end cap protective cover formed of fabric as taught by the Holt because Holt teaches that fabrics, having excellent flame retardant, abrasion resistance, and split or tear resistance (Col 18, lines 21-26), are commonly used to protect cables and pipes are sometimes formed as end cap cover configuration that provides environmental protection, including electrical protection for the joining or mechanical holding of substrates such as cables or pipes (Col 1, lines 17-21) and also provides protection for the exposed ends of cables or pipes (Col 29, lines 23-24).

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. They are Andrieu et al (Pat Num 5,178,923), Monget et al (Pat Num 4,784,886), Gladfelter (Pat Num 4,684,762), Czempoyesh (Pat Num 4,780,351), Tatum et al (Pat Num 4,281,211), Ford et al (Pat Num 5,556,495), Kaneda et al (Pat Num 5,164,237), Lowe (Pat Num 4,668,545), Overbergh et al (EP Pat Num 0278707), Dougherty (Pat Num 4,737,210), Thompson (Pat Num 4,371,578), Pithouse et al (Pat

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Num 4,639,545), Klein et al (Pat Num 4,791,236), Peacock (Pat Num 4,900,596), and Zuiches (Pat Num 4,930,543), all of which disclose protective fabric sleeves made of fibers, Brodrick, Jr. (Pat Num 5,200,245) and Shepard et al (Pat Num 6,205,623), both of which disclose hoop and loop fasteners, Holland et al (Pat Num 6,280,546), which discloses an abrasion resistant laminate made of Spectra® fibers, Merkel et al (Pat Num 5,516,985), De Bruycker et al (Pat Num 4,982,054), Meyer (Pat Num 3,847,183), Eiswirth et al (Pat Num 4,847,447), Eigel (Pat Num 3,962,554), and Campbell (Pat Num 4,194,082), all of which disclose end caps for cables.

Communication

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (703) 306-9061. The examiner can normally be reached on M-F 8:30 a. m.-6:00 p.m.(alternating Friday's off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3432 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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A handwritten signature or set of initials, possibly reading 'WHM III', written in a cursive style.

WHM III
July 24, 2002